

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERIC X. RAMBERT,)	
)	1:16cv270
Petitioner,)	Electronic Filing
)	
v.)	Judge David Stewart Cercone
)	Magistrate Judge Lisa Pupo Lenihan
MICHAEL OVERMYER, <i>Warden</i> ,)	
JOHN E. WETZEL, <i>Secretary</i> , and)	
ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
)	
Respondents.)	

MEMORANDUM ORDER

Petitioner Eric X. Rambert (“Petitioner”) initiated this action for habeas corpus relief on November 10, 2016, by filing a “Petition for Injunction Relief Pursuant to [28 U.S.C.] § 2241,” (“Petition”). (ECF No. 1.) In his Petition, he seeks removal from the Restricted Release List (“RRL”) and transfer to another state correctional facility. (ECF No. 12.) In accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court, all pretrial matters were referred to United States Magistrate Judge Lisa Pupo Lenihan.

On February 8, 2017, the Magistrate Judge issued a Report and Recommendation, wherein she recommended that the Petition be summarily dismissed, and that a Certificate of Appealability be denied, because Petitioner’s claims are not cognizable under 28 U.S.C. § 2241. (ECF No. 13.) In short, she concluded that Petitioner is challenging the conditions of his confinement, which he cannot do through a petition for habeas corpus relief pursuant to § 2241. Petitioner was served with the Report and Recommendation and informed that if he wished to

file objections then he must do so by February 22, 2017. On February 15, 2017, Petitioner filed a Motion for Leave to file an Amended Petition, (ECF No. 14), with an attached proposed Amended Petition, (ECF No. 14-1), and on February 17, 2017, he filed Objections to the Report and Recommendation, (ECF No. 15).

Where, as here, objections have been filed, the court is required to make a *de novo* determination about those portions of the Report and Recommendation to which objections were made. *See* 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The district court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions.

After reviewing the record *de novo*, including the pleadings and documents in this case, together with the Report and Recommendation, and Petitioner's Objections thereto, the Court is in agreement with the ultimate recommendation of the Magistrate Judge. Additionally, the Court finds that Petitioner's proposed Amended Petition (ECF No. 14-1), would also be subject to summary dismissal for the same reasons as his current Petition. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation dated February 8, 2017, (ECF No. 13), is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the "Petition for Injunction Relief Pursuant to § 2241," (ECF No. 12), is summarily dismissed.

IT IS FURTHER ORDERED that Petitioner's Motion for Leave to File an Amended Petition, (ECF No. 14), is denied as futile.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

Dated: *March 3, 2017*

DS Cercone

David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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